

HOUSE BILL NO. 435

INTRODUCED BY F. WILMER

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PROCESSES AND CONDITIONS TO CLOSE THE GENDER WAGE GAP; REVISING PENALTIES; PROVIDING GUIDELINES FOR DETERMINING EQUIVALENT SERVICE; PROVIDING FOR A DATABASE OF EQUIVALENT SERVICE GUIDELINES; AND AMENDING SECTION 39-3-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-104, MCA, is amended to read:

"39-3-104. Equal pay for women for equivalent service -- penalties -- definition. (1) It is unlawful for the state government or any county government, municipal entity, school district, public or private corporation, person, or firm to employ women in any occupation within the state for compensation less than that paid to men for equivalent service, as described in [section 2], or for the same amount or class of work or labor in the same industry, school, establishment, office, or place of employment of any kind or description.

(2) A complaint filed under this section must be filed first under Title 49, chapter 2, and subsequently as provided in 49-2-511.

~~(2) If the state or any county, municipal entity, school district, public or private corporation, person, or firm violates~~

(3) A violation of any of the provisions of subsection (1), it is guilty of is a misdemeanor, and upon In addition to the conditions provided in 49-2-506, upon a conviction thereof the state government, county government, municipal entity, school district, public or private corporation, person, or firm:

(a) shall be fined not less than \$25 or more than \$500 for each offense pay period during which the inequity occurred;

(b) shall additionally be liable for restitution to the person filing the complaint for back pay and interest on the back pay; and

(c) shall provide a corrective policy of equivalent service guidelines, as provided in [section 2], to the department of administration within 1 year of the conviction.

(4) For the purposes of this section, "state government" means any branch of government or department,

1 board, commission, office, bureau, institution, or unit recognized in the state budget."

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3 **NEW SECTION. Section 2. Equivalent service guidelines -- database.** (1) Except as provided in
4 subsection (2), a determination of equivalent service for the purposes of 39-3-104 includes:

5 (a) equal skills, effort, and responsibility; and

6 (b) performance under similar working conditions.

7 (2) An employer may differentiate on wages paid for equivalent service only on the basis of:

8 (a) a seniority system;

9 (b) a merit system that has no gender-based measures;

10 (c) a system that measures earnings by quantity or quality of production; or

11 (d) a written policy describing a differential that is based on a factor other than gender, including but not
12 limited to working conditions, exposure to risks and hazards, and differences between establishments operated
13 by the same employer but located in geographically distinct areas.

14 (3) An employer correcting a wage rate differential that violates this section may not reduce the wage
15 rate of any employee.

16 (4) (a) The department of administration shall compile a database of equivalent service guidelines
17 developed by the state, counties, municipalities, school districts, public corporations, private corporations,
18 persons, or firms, which may voluntarily provide the equivalent service guidelines unless required to provide the
19 equivalent service guidelines upon a conviction under 39-3-104.

20 (b) The department of administration shall provide public access to the guidelines upon request.

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22 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an
23 integral part of Title 39, chapter 3, part 1, and the provisions of Title 39, chapter 3, part 1, apply to [section 2].

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